

Remarks

Claims 1-7, 12-21, 38-40 and 42-60 were previously pending in the subject application. By this Amendment, the applicants have amended claims 1, 6, 7, 38, 40, 42, and 43 and have cancelled claims 2-5, 39 and 46-60. Accordingly, claims 1, 6, 7, 12-19, 21, 38, 40, and 42-45 are before the Examiner for his consideration.

The amendments to the claims have been made in an effort to lend greater clarity to the claimed subject matter and to expedite prosecution. These amendments should not be taken to indicate the applicants' agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

As an initial matter, applicants acknowledge their election of the Group I claims and have either withdrawn or cancelled claims that were drawn to non-elected subject matter.

The Office Action indicates that the reference by Stevens (cite No. R8) in the Information Disclosure Statement that was in the Patent Office file has not been considered by the Examiner because pages were missing. Enclosed with this Amendment is a clean, non-defective, copy of the Stevens reference (Cite No. R8). The applicants are submitting herewith a copy of the previous form 1449 and respectfully request that the Examiner make of record the consideration of the Stevens reference (Cite No. R8).

The subject disclosure has been objected to because it contains embedded hyperlinks and/or other forms of browser-executable codes. Please note that a Preliminary Amendment, deleting the hyperlinks and/or other forms of browser-executable codes was submitted to the U.S. Patent Office on February 27, 2002. Attached for the Examiner's review is a copy of the Preliminary Amendment and applicant's returned postcard indicating that the Patent Office received this Preliminary Amendment. However, in view of the fact that this Preliminary Amendment apparently did not get matched with the file at the Patent Office, the applicants have set forth herein the amendments that had previously been submitted in the missing Preliminary Amendment. Please note that the applicants have deleted Example 2, and related other text, because it contained data that was of questionable accuracy. Example 2 was not necessary for enablement of the claimed subject matter

and, therefore, deletion of this example was deemed to be in public's best interest of having a complete and accurate description in the patent specification. The deletion of Example 2 resulted in the deletion of certain sequences and, accordingly, the applicants are also submitting herewith a revised Sequence Listing on paper and in computer readable format.

Figure 1 has been objected to in the outstanding Office Action. By this Amendment the applicants have amended the brief description of the drawings, as suggested by the Examiner, to more clearly indicate what the symbols represent in Figure 1. This amendment is consistent with the description in Example 8 and does not add any new matter.

The specification at page 17, lines 15-16 have been objected to because it states that Figure 1 shows a CAATCH1 polynucleotide sequence. By this Amendment, the applicants have deleted the erroneous reference to Figure 1 at page 17, lines 15-16.

Claims 1-7, 19-21, 38 and 40 have been provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1-7, 19-21, 38 and 40 of co-pending Application No. 10/298,974. Please note that, with the amendments to the claims in the subject application, the current claims are no longer drawn to the same subject matter as that which is claimed in the '974 application. Accordingly, the applicants respectfully submit that this rejection has been rendered moot.

Claims 12-21 and 39 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-21, 39 and 40 of co-pending Application Serial No. 10/298,974. The applicants are submitting herewith a Terminal Disclaimer with respect to the '974 application.

The applicants' submission of a Terminal Disclaimer has been done to expedite prosecution and should not be interpreted to indicate that the applicants have agreed with, or acquiesced to, the double patenting rejection set forth in the outstanding Office Action. The applicants respectfully request reconsideration and withdrawal of this rejection in view of the submission of the Terminal Disclaimer.

Claims 1-7, 12-21, 38-40 and 42-45 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Please note that the claims have been amended herein in accordance

with the Examiner's helpful suggestions. Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. 112, second paragraph.

Claim 3 has been rejected under 35 U.S.C. §112, first paragraph. Although the applicants believe that this claim was fully enabled as filed, claim 3 has been cancelled herein thereby rendering moot this grounds for rejection.

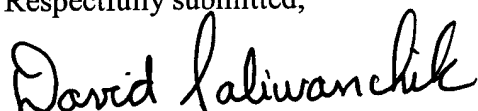
Claims 1-7, 12-21, 38-40 and 42-45 have been rejected under 35 U.S.C. §112, first paragraph. As noted above, the claims have been amended to lend greater clarity to the claimed subject matter. Please note that, in amending the claims, the applicants are in no way suggesting or acknowledging that the subject matter between the original claim scope and the amended claim scope is non-enabled. Rather, the applicants respectfully and explicitly reserve the right, under the doctrine of equivalents or otherwise, to assert that their claims cover any subject matter that was claimed and fully enabled in the application as filed. The claims now presented are believed to be fully enabled. Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph.

In view of the foregoing remarks and amendment, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

The applicants also invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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DRS/la

Attachments: Substitute Specification (marked-up version)
Substitute Specification (clean copy)
Statement under 37 C.F.R. §1.125(b)
Copy of Preliminary Amendment dated February 27, 2002
Copy of postcard
Terminal Disclaimer
Stevens *et al.* reference
Form PTO-1449